[IE] New Privacy Report and Bill

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Marie McGonagle
School of Law, National University of Ireland, Galway

In 2005, the Government decided that in tandem with new defamation legislation it would bring in new privacy legislation. To that end a working group, consisting of a senior lawyer and three civil servants, was set up in July 2005 and reported in March 2006. Its terms of reference required it to consider Articles 8 and 10 ECHR and prepare proposals on a general tort of violation of privacy, and identification of specific offensive forms of invasion of privacy. The group concluded that the arguments in favour of the introduction of a clear statutory cause of action outweighed the arguments against it. The Group drafted the heads of a Bill and the full text of a Bill was subsequently drafted and published. The Bill provides for a tort, actionable without proof of special damage, for a person wilfully and without lawful authority to violate the privacy of another person (s.2). Violation includes surveillance, disclosure of information obtained by surveillance, use of a person's name or likeness for advertising or financial gain, disclosure of a person's personal documents and harassment (s.3). Defences include lawful defence of person or property, conduct authorised by law or by a court, conduct by a public servant acting in the course of his or her duties, installation in good faith of closed circuit television or other surveillance system, newsgathering for a newspaper or broadcasting (s.5). Various circumstances in which disclosure would not amount to a violation are also set out, for example disclosure made in good faith or for the public benefit (s.6). Among the remedies envisaged are injunctions, damages and delivery up of documents (s.8). Provision is made also for actions to be heard otherwise than in public (s.13).

Draft Text of Privacy Bill, 5 July 2006

http://www.justice.ie/80256E010039C5AF/vWeb/flJUSQ6REJL6-ga/$File/PrivacyBill06.pdf

Privacy Bill, Explanatory Memorandum, 5 July 2006

http://www.justice.ie/80256E010039C5AF/vWeb/flJUSQ6REJLZ-en/$File/PrivacyBillExpMem.pdf

Report of Working Group on Privacy, 31 March 2006

http://www.justice.ie/80256E010039C5AF/vWeb/flJUSQ6REJMU-ga/$File/WkgGrpPrivacy.pdf

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